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FEB 22 2000

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In re Application of
Enzo Therapeutics, Inc., et al
Application No.: 09/171,909
PCT No.: PCT/US98/03606
Int. Filing Date: 26 February 1998
Priority Date: 28 February 1997
Attorney's Docket No.: ENZ55(CIP)(P
For: NOVEL PROCESS IMPLEMENTING SELECTIVE
IMMUNE DOWN REGULATION (SIDR)

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: DECISION ON
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: PETITION UNDER
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: 37 CFR 1.137(b)
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This is in response to the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR § 1.137(b)" filed on 13 April 1999.

BACKGROUND

On 26 February 1998, this international application was filed, claiming an earliest priority date of 28 February 1997.

This international application became abandoned with respect to the United States at midnight on 28 October 1998 for failure to provide the full U.S. basic national fee by 20 months. On 13 March 1999 the US Patent and Trademark Office mailed applicant a Notification of Abandonment (PCT/DO/EO/909).

On 13 April 1999, applicant filed the instant petition.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance

thereof; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Applicant's statement that "It is hereby requested that this application be revived because the delay in taking actions were unintentional" is being construed as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3). Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 and for issuing a PCT/EO/DO/ form 905(Notification of missing requirements) to inform applicant that the Declaration is missing. In addition the charge code must be change from 198 to 141 (unintentional revival fee).



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